

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

POWER INTEGRATIONS, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1371-JJF
)	
FAIRCHILD SEMICONDUCTOR)	
INTERNATIONAL, INC., and FAIRCHILD)	
SEMICONDUCTOR CORPORATION,)	
)	
Defendants.)	

**DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT OF LIMITATION
ON DAMAGES UNDER 35 U.S.C. § 287 (FAILURE TO MARK)**

Fairchild Semiconductor International, Inc. and Fairchild Semiconductor Corporation (collectively, "Fairchild") hereby respectfully move for summary judgment barring Power Integrations, Inc. ("Power Integrations") from recovering damages prior to the filing of its Complaint because of Power Integrations' failure to mark its products as required by 35 U.S.C. § 287. The facts regarding Power Integrations' failure to mark are not in dispute and as a matter of law do not satisfy the requirements of 35 U.S.C. § 287.

Fairchild also seeks to bar any calculation of damages based on economic or market data prior to the filing of the Complaint. No matter the measure of damages—price erosion, lost profits, reasonable royalty, or any other—Power Integrations' failure to comply with the marking statute requires, as a matter of law, that the date of actual notice be the starting point for any hypothetical negotiation or comparisons of price, profits or other relevant data.

This motion is based on the opening brief in support of this motion, the supporting evidence attached thereto, all pleadings and papers on file in this action, and any other evidence the Court deems proper and just.

ASHBY & GEDDES

/s/ John G. Day

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Dated: March 17, 2006
167736.1

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FOR THE DISTRICT OF DELAWARE

POWER INTEGRATIONS, INC.,)	
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v.)	C.A. No. 04-1371-JJF
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FAIRCHILD SEMICONDUCTOR)	
INTERNATIONAL, INC., and FAIRCHILD)	
SEMICONDUCTOR CORPORATION,)	
)	
Defendants.)	

ORDER

This _____ day of _____, 2006, defendants ("Fairchild") having moved for summary judgment barring Power Integrations, Inc. ("Power Integrations") from recovering damages prior to the filing of its Complaint because of Power Integrations' failure to mark its products as required by 35 U.S.C. § 287, and the Court, after considering the issues, having concluded that good grounds exist for the requested relief, now therefore,

IT IS HEREBY ORDERED that Fairchild's motion for summary judgment barring Power Integrations from recovering damages prior to the filing of its Complaint in this matter is hereby **GRANTED**.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of March, 2006, the attached **DEFENDANTS'**
MOTION FOR PARTIAL SUMMARY JUDGMENT OF LIMITATION ON DAMAGES
UNDER 35 U.S.C. § 287 (FAILURE TO MARK) was served upon the below-named counsel
of record at the address and in the manner indicated:

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/s/ John G. Day

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